THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.10641 OF 2005

DATED: 19TH JULY, 2006.

Between :

1. Kum. Bhargavi
2. Master Karthik

Both are residents of Flat No.202,
Plot No.193, Nikil Residency, Jayanagar,
Opp: KPHB Colony, Kukatpally,
Hyderabad-500 072.
(rep. by their uncle Sri L. Srinivasulu
as guardian as both petitioners are minors) … Petitioners

And

The Deputy General Manager (Personal),
ES-II, Rashtriya Ispat Nigam Ltd.,
(Visakhapatnam Steel Plant), Administrative Bldg.,
Visakhapatnam, A.P. … Respondent

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ORDER :

The mother of the petitioners by name Smt. L. Anasuya Devi died on 9-2-2004 while in service of Visakhapatnam Steel Plant as a Senior Medical Officer. During her lifetime, she got separated from her husband by virtue of a decree of divorce dated 15-3-2003 in O.P.No.8 of 2003 on the file of the Court of Senior Civil Judge, Nandigama, Krishna District. In the circumstances, the writ petitioners, now aged about 12 years and 10 years respectively, after the death of their mother are under the care and custody of their maternal uncle Sri L.Srinivasulu. It is stated that as a matter of fact the petitioners have been living with their maternal uncle at Hyderabad even during the lifetime of their mother. After the death of Smt. L. Anasuya Devi, the petitioners being her only legal heirs made an application before the respondent – Visakhapatnam Steel Plant requesting to settle and pay all the death benefits including pensionary benefits of their mother as per the rules and regulations of the respondent organization. It is stated that during her lifetime Smt. L. Anasuya Devi declared her brother L.Srinivasulu as guardian of her two children and the same was also recorded in her service record. The said fact was brought to the notice of the respondent organization and the death certificate dated 2-4-2004 as well as no objection certificate issued by the Mandal Revenue Officer, Jaggaiahpet were produced before the respondent requesting to release the death benefits of Smt. L.Anasuya Devi. However, the respondent by letter, dated 3-12-2004

informed that unless a succession certificate is furnished the death benefits and other pensionary benefits would not be disbursed. Aggrieved by the said action of the respondent, this writ petition is filed.

I have heard the learned Counsel for the petitioners Sri R.Subbarayudu and as well as Sri V. Ravinder Rao, the learned Counsel appearing for the respondent.

Though no counter-affidavit is filed, the learned Counsel for the respondent placed before this Court a copy of the nomination form made by Smt. L. Anasuya Devi. He also placed before this Court the other documents produced by the petitioners to show their entitlement to receive the death benefits of Smt. L.Anasuya Devi. The said material shows that in the nomination form late L. Anasuya Devi while mentioning the names of the petitioners herein as nominees, they being minors declared that her brother Sri L.Srinivasulu shall be the guardian. In the nomination, the relationship of Sri L.Srinivasulu was clearly mentioned as brother of Smt. L. Anasuya Devi. Though it appears that the husband of late L. Anasuya Devi also made a claim for her death benefits, subsequently he addressed a letter dated 12-4-2004 informing the respondent that there was a compromise among himself and the father and brother of late L.Anasuya Devi and accordingly he has no objection for payment of death benefits to the guardian of the minor children. Moreover, a copy of the decree dated 15-3-2003 in O.P.No.8 of 2003 on the file of the Court of Senior Civil Judge, Nandigama placed before this Court shows that the marriage between late L.Anausya Devi and Mallikharjuna Rao stood dissolved.

The learned Counsel for the respondent states that the husband of late L.Anasuya Devi has not made any further claim and the letter dated 12-4-2004 addressed to the respondent makes it clear that he has no objection for disbursement of the death benefits in favour of the petitioners.

In view of the material available on record particularly the

nomination made by Smt. L. Anasuya Devi in respect of Provident Fund and Gratuity, I am of the opinion that the petitioners herein who are the nominees are entitled to receive the said amounts. At any rate, as declared by the Supreme Court in SARBATI DEVI v. USHA DEVI[1], the nominee does not get absolute right to the amount but the nomination only indicates the hand which is authroised to receive the amount. Similar view has been expressed by a Division Bench of this Court in SHAIK DAWOOD v. MAHMOODA BEGUM[2] and also by the High Court of Madhya Pradesh in BRIJ LAL SINGDH v. THE REGI. P.F. COMMI. & ORS[3] holding that only a nominee can give valid discharge to the Commissioner for payment of the amount of Provident Fund. Thus, it is clear that the nominees alone will have exclusive right to receive the Provident Fund and Gratuity.

In the circumstances, the insistence of the respondent for production of succession certificate is unwarranted.

Accordingly, the writ petition is disposed of with a direction to the respondent to disburse the Provident Fund and Gratuity of late L. Anasuya Devi to the writ petitioners without insisting on production of succession certificate. The other benefits shall also be disbursed to the petitioners since they are shown as only legal heirs of late L.Anasuya Devi.

Writ Petition is accordingly disposed of. No costs.

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G. ROHINI, J.

Dt. 19-7-2006

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[1] AIR 1984 Supreme Court 346

[2] AIR 1985 Andhra Pradesh 321 (DB)

[3] 1995 (3) LLJ (Suppl.) 111